

## **EXHIBIT 1**

## Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates

Notice Number:

NOT-OD-25-068

## Key Dates

Release Date:

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## Related Announcements

None

## Issued by

Office of The Director, National Institutes of Health ([OD](#))

## Purpose

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The National Institutes of Health (NIH) awards a large number of grants providing substantial federal funding for research purposes. These grants include significant payments for “indirect costs,” defined as “facilities” and “administration.” [45 CFR 75.414\(a\)](#). The “facilities” category is “defined as depreciation on buildings, equipment and capital improvements, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses.” *Id.* And the “administration” category is defined as “general administration and general expenses such as the director’s office, accounting, personnel, and all other types of expenditures not listed specifically under one of the subcategories of ‘Facilities’” (including cross allocations from other pools, where applicable). *Id.*

In issuing grants, NIH generally uses the indirect cost rate negotiated by an “agency with cognizance for F&A/indirect cost rate (and other special rate) negotiation.” Grants Policy Statement at IIA-68; *see* 45 C.F.R. 75.414(c)(1). NIH may, however, use “a rate different from the negotiated rate for either a class of Federal awards or a single Federal award.” 45 C.F.R. 75.414(c)(1). NIH may deviate from the negotiated rate both for future grant awards and, in the case of grants to institutions of higher education (“IHEs”), for existing grant awards. *See* [45 CFR Appendix III to Part 75, § C.7.a](#); *see* 45 C.F.R. 75.414(c)(1).

In deviating from the negotiated indirect cost rate, NIH must “implement, and make publicly available, the policies, procedures, and general decision-making criteria that their programs will follow to seek and justify deviations from negotiated rates.” 45 C.F.R. § 75.414(c)(3).

In accordance with 45 CFR 75 and its accompanying appendices, this Guidance implements and makes publicly available NIH’s updated policy deviating from the negotiated indirect cost rate for new grant awards and existing grant awards, effective as of the date of this Guidance’s issuance. Pursuant to this Supplemental Guidance, there will be a standard indirect rate of 15% across all NIH grants for indirect costs in lieu of a separately negotiated rate for indirect costs in every grant.

### Providing Indirect Cost Rates that Comport with Market Rates

NIH's mission is to “seek fundamental knowledge about the nature and behavior of living systems” in order to enhance health, lengthen life, and reduce illness and disability. In furtherance of this mission, NIH spent more than \$35 Billion in Fiscal Year 2023 on almost 50,000 competitive grants to more than 300,000 researchers at more than 2,500 universities, medical schools, and other research institutions across all 50 states and the District of Columbia.<sup>[1]</sup> Of this funding, approximately \$26 billion went to direct costs for research, while \$9 billion was allocated to overhead through NIH’s indirect cost rate.

Although cognizant that grant recipients, particularly “new or inexperienced organizations,” use grant funds to cover indirect costs like overhead, *see 89 FR 30046–30093*, NIH is obligated to carefully steward grant awards to ensure taxpayer dollars are used in ways that benefit the American people and improve their quality of life. Indirect costs are, by their very nature, “not readily assignable to the cost objectives specifically benefitted” and are therefore difficult for NIH to oversee. *See Grants Policy Statement at I-20.* Yet the average indirect cost rate reported by NIH has averaged between 27% and 28% over time.<sup>[2]</sup> And many organizations are much higher—charging indirect rates of over 50% and in some cases over 60%.

Most private foundations that fund research provide substantially lower indirect costs than the federal government, and universities readily accept grants from these foundations. For example, a recent study found that the most common rate of indirect rate reimbursement by foundations was 0%, meaning many foundations do not fund indirect costs whatsoever. In addition, many of the nation’s largest funders of research—such as the Bill and Melinda Gates Foundation—have a maximum indirect rate of 15%. And in the case of the Gates Foundation, the maximum indirect costs rate is 10% for institutions of higher education.

A sample list of foundations that provide indirect cost funding and their respective maximum indirect rate is below:<sup>[3]</sup>

Maximum Indirect Cost Rate	Organizations
10%	<ul style="list-style-type: none"> <li>Gates Foundation (for institutions of higher education)</li> <li>Smith Richardson Foundation</li> </ul>
12%	<ul style="list-style-type: none"> <li>Gordon and Betty Moore Foundation</li> <li>Robert Wood Johnson Foundation</li> </ul>
15%	<ul style="list-style-type: none"> <li>Carnegie Corporation of New York</li> <li>Chan Zuckerberg Initiative</li> <li>John Templeton Foundation</li> <li>Packard Foundation</li> <li>Rockefeller Foundation (for institutions of higher education)</li> </ul>

Indeed, one recent analysis examined what level of indirect expenses research institutions were willing to accept from funders of research. Of 72 universities in the sample, 67 universities were willing to accept research grants that had 0% indirect cost coverage. One university (Harvard University) required 15% indirect cost coverage, while a second (California Institute of Technology) required 20% indirect cost coverage. Only three universities in the sample refused to accept indirect cost rates lower than their federal indirect rate. These universities were the Massachusetts Institute of Technology, the University of Michigan, and the University of Alabama at Birmingham.

The United States should have the best medical research in the world. It is accordingly vital to ensure that as many funds as possible go towards direct scientific research costs rather than administrative overhead. NIH is accordingly imposing a standard indirect cost rate on all grants of 15% pursuant to its 45 C.F.R. 75.414(c) authority. We note in doing so that this rate is 50% higher than the 10% de minimis indirect cost rate provided in 45 C.F.R. 75.414(f) for NIH grants. We have elected to impose a higher standard indirect cost rate to reflect,

among other things, both (1) the private sector indirect cost rates noted above, and (2) the de minimis cost rate of 15% in [2 C.F.R. 200.414\(f\)](#) used for IHEs and nonprofits receiving grants from other agencies.

## NIH Implementation

For any new grant issued, and for all existing grants to IHEs retroactive to the date of issuance of this Supplemental Guidance, award recipients are subject to a 15 percent indirect cost rate. This rate will allow grant recipients a reasonable and realistic recovery of indirect costs while helping NIH ensure that grant funds are, to the maximum extent possible, spent on furthering its mission. This policy shall be applied to all current grants for go forward expenses from February 10, 2025 forward as well as for all new grants issued. We will not be applying this cap retroactively back to the initial date of issuance of current grants to IHEs, although we believe we would have the authority to do so under 45 CFR 75.414(c).

[1] NIH, *Budget* (Oct. 3, 2024), <https://www.nih.gov/ABOUT-NIH/WHAT-WE-DO/BUDGET>.

[2] NIH, Fiscal Year 2021 Overview Supplementary Tables at 87, <https://officeofbudget.od.nih.gov/pdfs/FY21/br/5-SupplementaryTables.pdf>.

[3] See Bill & Melinda Gates Found., Indirect Cost Policy (Feb.

2017), [https://docs.gatesfoundation.org/Documents/Indirect\\_Cost\\_Policy.pdf](https://docs.gatesfoundation.org/Documents/Indirect_Cost_Policy.pdf); Smith Richardson Found., Strategy and Policy Fellows Program, <https://www.srf.org/wp-content/uploads/2014/04/2021-SPFP-Application-Requirements-and-Proposal-Template.pdf>; Gordon & Betty Moore Found., Moore Inventor Fellows: 2024-2025 FAQ, <https://www.moore.org/docs/default-source/moore-inventor-fellows/moore-inventor-fellows-faq.pdf>; Robert Wood Johnson Found., Policies for Action:Grants FAQs, [https://anr.rwjf.org/templates/external/P4A\\_FAQS.pdf](https://anr.rwjf.org/templates/external/P4A_FAQS.pdf); Carnegie Corp. of New York, Grantee FAQs, <https://www.carnegie.org/grants/grantee-faqs/#:~:text=What%20is%20your%20indirect%20cost,think%20tanks%2C%20and%20government%20entities>; Chan Zuckerberg Initiative, Application Instructions, [https://chanzuckerberg.com/wp-content/uploads/2020/06/CZI\\_Imaging\\_Scientists\\_2\\_Detailed\\_Instructions.pdf](https://chanzuckerberg.com/wp-content/uploads/2020/06/CZI_Imaging_Scientists_2_Detailed_Instructions.pdf); John Templeton Found., Grant FAQ, <https://www.templeton.org/grants/grant-faq>; The Packard Found., Fostering Equitable Grantmaking through Indirect Cost Coverage, <https://www.packard.org/insights/perspective/fostering-equitable-grantmaking-through-indirect-cost-coverage/>; The Rockefeller Found., Guidance: Preparing a Project Grant Budget for the Rockefeller Foundation, <https://www.rockefellerfoundation.org/wp-content/uploads/2024/06/The-Rockefeller-Foundation-Project-Budget-Guidance-v2024.pdf>.

## Inquiries

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